

1 Vanessa R. Waldref
2 United States Attorney
3 Eastern District of Washington
4 Richard R. Barker
5 Assistant United States Attorney
6 Post Office Box 1494
7 Spokane, WA 99210-1494
8 Telephone: (509) 353-2767

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 CHET ARLIE MOSES,

15 Defendant.

2:21-CR-00026-TOR

United States' Notice of Review of
Presentence Investigation Report and
Sentencing Memorandum

16 The United States of America, by and through United States Attorney Vanessa
17 R. Waldref and Assistant United States Attorney Richard R. Barker, submits the
18 following Notice of Review of the Draft Presentence Investigation Report (hereinafter
19 "PSIR") prepared by United States Probation Officer Jennifer Frieling, dated December
20 2, 2021. *See* ECF No. 31.

21 As set forth herein, the United States recommends a sentence toward the bottom
22 end of the guideline range ultimately determined by the Court. The United States also
23 recommends revocation of Defendant's supervised release in 2:12-CR-02088-TOR-1
24 and for any sentence imposed for violations of his release conditions to run
25 consecutively with Defendant's sentence in the instant case. Finally, the United States
26 requests a period of three years' supervised release with the conditions recommended
27 in the PSIR. The United States' recommendation is based on the below memorandum
28

1 of points and authorities, the files and records in this case, and such further evidence
2 and argument as the Court may permit.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I. BACKGROUND AND RELEVANT FACTS**

5 In late February last year, Defendant asked his victim, R.C.C., who was an
6 intimate partner at the time, for a ride. R.C.C. picked up Defendant from the Yokes
7 Market in Airway Heights, Washington. From there, Defendant directed R.C.C. to
8 drive him to a nearby apartment building, which R.C.C. did. ECF No. 31 at ¶9.

9 When they arrived at the apartment building, Defendant pulled out a knife,
10 pointed it at R.C.C., and threatened, “you know the deal.” Moments later, a female
11 walked to R.C.C.’s car and tried to get in the backseat. R.C.C. locked the doors and
12 pleaded with Defendant not to take the car. Defendant told R.C.C. to let the female in
13 the car, and R.C.C. reluctantly did so at knife point. With the knife still pointed at
14 R.C.C., Defendant directed her to drive. Although R.C.C. responded that she did not
15 want to go anywhere, she did as she was told, driving westbound in an alley behind the
16 apartments. When the car reached an intersection, R.C.C. tried to turn left, but
17 Defendant demanded she turn run and take Defendant to the Northern Quest Casino.
18 At this point, R.C.C. removed her seatbelt and shifted the car into park. R.C.C. begged
19 Defendant that if he let R.C.C. go, Defendant could take the car. Defendant then climbed
20 over the console into the driver’s seat. He and the female drove away in R.C.C.’s
21 vehicle – a 2011 Infiniti G37. ECF No. 33 at ¶¶ 10-11.

22 R.C.C. was able to escape and called police, reporting the carjacking. Police
23 recovered R.C.C.’s car days later in possession of the person who traded drugs to
24 Defendant for the Infiniti. ECF No. 33 at ¶15. When Defendant was arrested, he made
25 incriminating statements about the offense. *See id.* at ¶ 17.

1 **A. Plea agreement**

2 On September 16, 2021, Defendant entered a guilty plea to the sole count in the
3 Indictment – Carjacking in violation of 2119(1). Pursuant to the Plea Agreement, the
4 United States agreed to recommend a sentence within the applicable guidelines range.
5 ECF No. 107 at ¶5. Defendant is permitted to argue for any legal sentence. *Id.* The
6 parties further agreed to jointly recommend a 3-year term of supervised release. *Id.*

7 **B. Sentencing Guidelines Calculations and Statutory Provisions**

8 Following the plea agreement, U.S. Probation Office conducted its own
9 investigation and submitted a Presentence Investigation Report (“PSIR”) to the Court.
10 *See* ECF No. 31. For purposes of calculating the appropriate range under the United
11 States Sentencing Guidelines (the “Guidelines”), the United States agrees with the
12 Probation Officer’s calculations, as set forth in the draft PSIR. Specifically, the United
13 States agrees that the total offense level is 23 with a criminal history category III,
14 resulting in an advisory sentencing range of 57-71 months.

15 **C. Victim Impact & Restitution**

16 The Victim, R.C.C., did not submit a formal victim impact statement, but may
17 ask to speak at sentencing. She has been in contact with the U.S. Attorney’s Office
18 during the pendency of this case, and she indicated she may seek restitution for the loss
19 of her phone, which was still inside the car when it was stolen. She may also request
20 restitution for damage to her car after the carjacking. Notwithstanding numerous
21 requests for information and/or documentation regarding the amount of, and support
22 for, restitution, the United States has not received such information as of the time of this
23 filing. The United States will continue to seek this information prior to sentencing and
24 will provide it to the Court, U.S. Probation, and Defense immediately upon receipt.

25 **II. UNITED STATES’ SENTENCING RECOMMENDATION**

26 In light of the Plea Agreement, Guidelines, and factors set forth at 18 U.S.C.
27 § 3553, the United States respectfully recommends a sentence toward the bottom end
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1 of the guideline range, as ultimately determined by the Court. Additionally, the United
2 States respectfully request that Defendant's sentence for violating his supervised release
3 in 2:12-CR-2088-TOR-1 run consecutively to his sentence for carjacking and stealing
4 R.R.C.'s vehicle.

5 Defendant criminal history is troubling, and this offense represents the latest in a
6 string of escalating violent criminal conduct. Such conduct includes, among other
7 things, a 2012 conviction for assault with a dangerous weapon and subsequent
8 violations of Defendant's supervised release in that case. *See* ECF No. 31 at ¶49. That
9 said, and as the parties will address in further detail at sentencing, Defendant's criminal
10 behavior appears to stem, at least in part, from unresolved mental health issues and drug
11 abuse. *Id.* at ¶¶126 – 134. While these are not excuses for Defendant's violent conduct,
12 these circumstances help to explain and put his conduct into context. Sobriety will be
13 key to whether Defendant is able to make the changes necessary to return and remain
14 in the community.

15 Defendant is almost 38 years old. If the Court imposes a guideline sentence, he
16 will be well over 40 when he is released. *See id.* at 2. As difficult as it may be,
17 Defendant must make the decision to dissociate himself from bad influences and turn
18 away from those who engage in illegal narcotics and alcohol. He has already spent
19 several years of his life in federal custody, and as a result of this case, he will be in
20 custody for several years more. Simply put, Defendant is running out of opportunities
21 to turn his life around. A sentence toward the bottom end of the applicable guideline
22 range affords Defendant a final opportunity to make the necessary changes in his life,
23 while protecting the community and giving a measure of justice to the victim.

24 CONCLUSION

25 Based on the foregoing as well as any additional points and authorities permitted
26 at the time of sentencing, the United States requests a sentence of incarceration toward
27 the bottom end of the guideline range in this case. The United States further submits
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1 that a three-year period of supervised release with the special conditions recommended
2 by the Probation Officer is appropriate. It is the United States' view that such a sentence
3 is appropriate, but no greater than necessary, to achieve the statutory goals of
4 sentencing. Finally, the government further requests that the Court order a \$100
5 mandatory special penalty assessment and restitution, as appropriate.

6 Dated this 23rd day of February 2022

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8 Vanessa R. Waldref
9 United States Attorney

10 s/ Richard R. Barker
11 Richard R. Barker
12 Assistant United States Attorney
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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to counsel of record.

s/ Richard R. Barker

Richard Barker

Assistant United States Attorney